



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,963	03/11/2004	Wolfgang Thomar	081276-1030-00	6270
34044 7590 05/01/2008 MICHAEL BEST & FRIEDRICH LLP 100 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202				
EXAMINER				
GRAHAM, GARY K				
ART UNIT		PAPER NUMBER		
3723				
MAIL DATE		DELIVERY MODE		
05/01/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/797,963

Applicant(s)

THOMAR ET AL.

Examiner

Gary K. Graham

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2008.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
4a) Of the above claim(s) 10 is/are withdrawn from consideration.
5) ☒ Claim(s) 13-21 is/are allowed.
6) ☒ Claim(s) 1-4, 11 and 12 is/are rejected.
7) ☒ Claim(s) 5-9 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 20080208
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Inventor's Patent Application
6) ☐ Other: _____

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: Reference to the claims from the written description appears improper. The written description should not look to the claims to define the invention. For example, page 2, line 25, as numbered. Applicant should review the entire specification for all such occurrences.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mueller (German patent 10036122).

The patent to Mueller discloses the invention substantially as is claimed, including a wiper blade (fig.9) having an elastic wiper strip (2), which is placed against a band surface of elastic supporting element (1). The other band surface of the supporting element is covered by another component (7) of the blade, at least in sections. The covering (7) is embodied as a wind deflector strip whose air flow blade (10) extends away from the supporting element (1). This covering component grips under the supporting element with claw-like projections arranged in the longitudinal direction of the wiper blade. The covering part is made of an elastic plastic and is provided with an armoring (S.i) in the area of the projections. The armoring is disclosed as being harder than the remainder (S.a) of the covering part.

The patent to Mueller discloses all of the above recited subject matter with the exception of the armoring layer (S.i) being stronger than the remainder of the covering part and the armoring being of metal.

While Mueller only discloses that the armoring layer as harder than the remainder of the covering part, it would have been obvious to make such stronger as well. The armoring layer (S.i) acts to join the outer layer or remainder of the covering part with the supporting element and the mounting plate block (4). Thus the armoring layer handles the majority of the forces in the moving of the wiper blade. This is most likely why the armoring layer is disclosed as harder. It would have been obvious to one of skill in the art to make the armoring layer of Mueller as stronger than the remainder of the covering part, if it's not already, to ensure stability within the wiper blade structure. The making of high or higher stress components as stronger than lower stress components is well established.

With respect to claim 1, and the limitation of “at least a portion of the armoring extends into the air flow blade”, such does not distinguish from Mueller. The air flow blade of Mueller can be considered to start from a position adjacent the armoring, or even slightly below such. Therefore the armoring is considered to extend into the air flow blade, at least as far as defined.

With respect to claim 2, while Mueller discloses that the armoring is plastics, it would have been obvious to one of skill in the art to make such of any material so desired, including metal as claimed. The particular choice of material of the armoring appears to relate more to the choice of the manufacturer and the availability of materials to make the armoring than on any inventive concept. Use of both plastics and metals are well known in the automotive arts and substitution of one for the other is generally considered obvious, lacking some criticality of such choice.

Claims 1-4, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Block et al (German patent 10044913) in view of Mueller (German patent 10036122).

The patent to Block discloses the invention substantially as is claimed, including a wiper blade (fig.2) having an elastic, rubber wiper strip (14), which is placed against a band surface of a pair of elastic, parallel supporting elements (32). The other band surface of the supporting element is covered by another component (42) of the blade, at least in sections. This covering component is embodied as a wind deflector strip with an air flow blade extending away from the supporting elements. The covering component grips under away facing edges of the supporting element with claw-like projections arranged in the longitudinal direction of the wiper blade. The covering part is made of an elastic plastic and the holding claws thereof are provided with an initial bevel on an underside.

The patent to Block discloses all of the above recited subject matter with the exception of an armoring provided on the covering part.

The patent to Mueller discloses all of the above recited subject matter.

It would have been obvious to one of skill in the art to provide the covering of Block with an armoring, as clearly suggested by Mueller, to enhance the structural integrity of the covering. While Mueller only discloses that the armoring layer is harder than the remainder of the covering part, it would have been obvious, as discussed above, to make such stronger as well when providing such in the Block covering.

With respect to claim 1, as the air blade of Block extends up and away from both the strip (14) and the supporting elements to define a hollow space, so will the armoring provided therein, as suggested by Mueller, at least to some degree. Mueller suggests the armoring attached on its upper surface with the remainder of the covering component. It would appear that providing such armoring in the blade of Block would result in the armoring following the contour of the remainder of the covering part, into the extending air blade. Additionally, as set forth above, the air flow blade of Block can be considered to start from a position adjacent the supporting elements or even slightly below such. Therefore it would appear that any armoring provided in the covering part would extend into the air flow blade, at least to some degree and as far as defined.

With respect to claim 2, while Mueller discloses that the armoring is plastics, it would have been obvious to one of skill in the art to make such of any material so desired, including metal as claimed. The particular choice of material of the armoring appears to relate more to the choice of the manufacturer and the availability of materials to make the armoring than on any inventive concept. Use of both plastics and metals are well known in the automotive arts and substitution of one for the other is generally considered obvious, lacking some criticality of such choice.

Allowable Subject Matter

Claims 5-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 13-21 are allowed.

Response to Arguments

Applicant's arguments filed 04 February 2008 have been fully considered but they are not persuasive. As set forth above, there still remains at least one reference to the claims from the written description. Correction is requested.

Applicant's argument that the armoring of Mueller does not extend into the air flow blade is noted, but not persuasive. As set forth above, the air flow blade can be defined as extending from the armoring (S.i), or slightly there below, upward. Nothing would prevent such a reading on the "blade". Note that there is no particular limitations placed on the construction of the air flow blade, at least none that differentiates from Mueller.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K. Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J. Hail can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary K Graham/
Primary Examiner, Art Unit 3723

GKG
28 April 2008